



The Punjab Motor Spirit (Taxation of Sales) Act, 1939

Act 1 of 1939

Keyword(s):

Motor Spirit, Penalty, Petrol Taxation Officer, Retail Sale, Sale, Vehicle, Excise and Taxation Commissioner, Deputy Excise and Taxation Commissioner

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THE PUNJAB MOTOR SPIRIT (TAXATION OF
SALES) ACT, 1939

Punjab Act No. 1 of 1939

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**¹THE PUNJAB MOTOR SPIRIT (TAXATION OF
SALES) ACT, 1939.**

Punjab Act No. I of 1939.

**[Received the assent of His Excellency the Governor on
the 8th April, 1939, and, was first published in the
Punjab Gazette, Extraordinary, of the 12th April,
1939].**

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1939	I	The Punjab Motor Spirit (Taxation of Sales) Act, 1939	Amended by Punjab Act 10 of 1942 ^a Amended by East Punjab Act 5 of 1948 ^a Amended by East Punjab Act 6 of 1948 ^a Amended by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Amended by East Punjab Act 29 of 1949 ^b Amended by the Adaptation of Laws Order, 1950 Amended by Punjab Act 13 of 1953 ^b Amended by Punjab Act 10 of 1955 ^c Extended to the territories of the erstwhile State of Patiala and East Punjab States Union by Punjab Act No. 7 of 1957 with effect from 24th May, 1957 ^d Amended by Punjab Act 20 of 1957 ^e Amended by Punjab Act 11 of 1959 ¹⁰ Amended by Punjab Act 19 of 1960 ¹¹ Amended by President Act 10 of 1966 and by Punjab Act 20 of 1969 ¹²

¹For the Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1939, page 13, for the Select Committee's report see *ibid* pages 57—73, and for the proceedings in Assembly see Punjab Legislative Assembly Debates, 1939, Volume VIII, pages 34—47 and 759, Volume IX, pages 34—68 and 91—99.

²For Statement of Objects and Reasons see *Punjab Government Gazette*, Extraordinary, 1942 page 215 ; and for proceedings of the Assembly, see Punjab Legislative Assembly Debates, Volume XX, page 100.

³For Statement of Objects and Reasons see *East Punjab Government Gazette*, Extraordinary, 1948, page 163 and for proceedings of the Assembly, see East Punjab Legislative Assembly Debates, Volume II, pages 671-672.

⁴For Statement of Objects and Reasons see *Punjab Government Gazette*, Extraordinary, 1948, page 163 ; and for proceedings of the Assembly, see East Punjab Legislative Assembly Debates, Volume II, pages 672—74.

⁵For Statement of Objects and Reasons see *East Punjab Government Gazette* Extraordinary, 1949, page 968 ; and for proceedings of the Assembly, see East Punjab Legislative Assembly Debates, Volume IV, pages (5) 48 to (5) 52.

⁶For Statement of Objects and Reasons see *Punjab Government Gazette*, Extraordinary of 3rd March, 1953, p. 201; and for proceedings in the Council and Assembly see Punjab Legislative Assembly and Punjab Legislative Council Debates of 1953.

⁷For Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1955 page 142.

⁸See The Punjab Laws (Extension No. 2), Act 1957 (Punjab Act No. 7 of 1957).

⁹For Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1957, page 754.

¹⁰For Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1959, page 380.

¹¹For Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1960, pages 955-956.

¹²For Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary) 1966, page 22, and 1969 page 1088.

An Act to provide for the levy of a tax on the retail Sale of motor spirit

Preamble

WHEREAS, it is expedient to provide for the levy of a tax on the retail sale of motor spirit; it is hereby enacted as follows :—

CHAPTER I.—Preliminary.

Short title and commencement.

1. (1) This Act may be called the Punjab Motor Spirit (Taxation of Sales) Act, 1939.

(2) It shall come into force on such date as the Governor may by ¹notification appoint.

Definitions.

2. 2* * *

In this Act unless there be anything repugnant in the context,—

- (a) "Government" means the Punjab Government;
- (b) "magistrate" means any magistrate exercising powers not less than those of a magistrate of the second class;
- (c) "motor spirit" means any inflammable hydrocarbon (including any mixture of hydro-carbons, or any liquid containing hydrocarbon) which is ordinarily used for providing reasonably efficient motive power for any form of motor vehicle ;
- (d) "penalty" means a penalty imposed under section 9 of this Act ;
- (e) "Petrol Taxation Officer" means such officer not below the rank of an ³[Assistant Excise and Taxation Officer], as may be appointed by Government to discharge

¹It came into force on 19th April, 1939,—*vide* Punjab Government notification No. 1822-Ex., dated 14th April, 1939 (Gazette Extraordinary).

²Sub-section (1) omitted by Punjab Act 13 of 1953, section 2 (i). The brackets and figures (2) in sub-section (2) also omitted by *ibid*.

^aSubstituted by Punjab Act 13 of 1953, section 2 (iii).

the duties of a petrol taxation officer under this Act with reference to any particular area;

- (f) "prescribed" means prescribed by rules made under this Act ;
- (g) "retail dealer" means any person who, on commission or otherwise, sells any motor spirit to a consumer or to any other person for any purpose other than resale, or keeps any motor spirit for sale to consumer or to any other person for purposes other than resale ;
- (h) "retail sale" means a sale by a retail dealer of any motor spirit to a consumer or to any other person for any purpose other than resale;
- (i) "sale" and "sell" include exchange, barter and also the consumption of motor spirit by the retail dealer himself ;
- (j) "vehicle" includes any carriage or conveyance used on land or in water or air ;
- ¹[(k) "Excise and Taxation Commissioner" means the person for the time being appointed by Government to perform all or any of the functions and exercise all or any of the powers of the Excise and Taxation Commissioner ; and
- (l) "Deputy Excise and Taxation Commissioner" means the person for the time being appointed by Government to perform all or any of the functions and exercise all or any of the powers of the Deputy Excise and Taxation Commissioner in any specified local area].

CHAPTER II.—Taxation.

3. ²[(1) There shall be levied and paid to the Govern-^{Imposition of Tax.}
ment of Punjab on all retail sales of—

- (a) diesel oil, a tax at the rate of seven paise for each litre; and
- (b) other motor spirit, a tax at the rate of nine paise for each litre.]

¹Clause (k) and (l) added by Punjab Act 13 of 1953, section 2(ii).

²Sub-section (1) of section 3, substituted by President Act 10 of 1966, and then substituted by Punjab Act 20 of 1969, with effect from 1st November, 1967.

¹[(2) The ²[State] Government may by notification exempt any retail sales of motor spirit from liability to pay tax under the Act, either wholly or partially and on such conditions as it may think [fit to impose.]

Recovery of taxes
as arrears of land
revenue.

4. When the payment of any tax or penalty under this Act falls due the amount may be recovered as if it were an arrear of land revenue.

Power to determine
certain questions.

5. (1) Any question as to whether a tax or penalty is recoverable under this Act, the person from whom it is due and the amount so recoverable shall be determined by the Petrol Taxation Officer for the area where the sale takes place.

(2) No such order shall be made final until an opportunity has been given to any person concerned to appear in person or by duly authorised agent before the Petrol Taxation Officer; but once the order has been made final a certificate given under the hand of the Petrol Taxation Officer shall, subject to the provisions of this Act with regard to appeal, review and revision be final and conclusive proof both as to the amount of the tax or penalty which is due and as to the person from whom it is due.

CHAPTER III—Licensing of retail dealers.

No person to trade
without a licence.

6. After the expiry of a period of two months from the commencement of this Act no person shall carry on business as a retail dealer unless he is in possession of a valid licence.

7. (1) Except as provided hereunder, a license shall be granted to any person applying therefor ³[in the prescribed form] to the Petrol Taxation Officer on payment of a fee of not more than five rupees, if any, as may be prescribed.

(2) Every such license shall be valid without renewal only up to the thirty-first day of March following the date on which it is granted, but may be renewed annually.

¹Added by East Punjab Act 29 of 1949.

²Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³Inserted by East Punjab Act 6 of 1948, section 2(a).

(3) The grant or renewal of a license may be refused if any previous license of the applicant ¹[or of any person with whom the applicant has been working as a partner] has been cancelled ²[or if the applicant or any person with whom he has been working as a partner has been convicted of any offence relating to the motor spirit] or if the Petrol Taxation Officer is satisfied that the application has been made only for the purpose of enabling any person to carry on business as a retail dealer without a license.

(4) No license under this Act ³[except in the case of a license for the retail sale of powerine or diesel oil] shall be granted to any person who does not hold a license for the storage of dangerous petroleum under the Petroleum Act, 1934, and if any such license granted under that Act is cancelled, suspended or is not renewed, any license granted under this Act to the holder thereof shall be deemed to be cancelled, suspended or not renewed as the case may be.

(5) If any application for the renewal of a license under this Act is made within such time before its expiry as may be prescribed by Government, the holder of the license shall be deemed to be in possession of a valid license until the license is renewed or until he is informed that the renewal of the license has been refused.

8. (1) The Petrol Taxation Officer may after giving the licensee an opportunity to be heard, suspend or cancel a license for a breach of any of the conditions which may be prescribed as the conditions subject to which a license is granted. Suspension or cancellation and restoration of licence.

(2) A licensee shall not be entitled to any compensation for the suspension or cancellation of his license under the foregoing sub-section.

(3) A license cancelled or suspended under this section may be restored by the Petrol Taxation Officer on payment of such fee as may be prescribed.

CHAPTER IV—Penalties and powers to prevent evasion.

9. If any tax due under this Act is not paid within the time fixed by notice issued in the prescribed manner, the Petrol Taxation Officer may impose a Imposition of penalty.

¹Inserted by East Punjab Act 6 of 1948, section 2 (b) (i).

²Inserted by East Punjab Act 6 of 1948, section 2 (b) (ii).

³Inserted by Punjab Act 10 of 1955, section 2.

penalty not exceeding the amount of the tax due, in addition to the payment of the tax. Provided that no such penalty shall be imposed unless the person on whom it is to be imposed or his duly authorised agent is given an opportunity of being heard by the Petrol Taxation Officer.

Punishment for
unauthorised sale.

10. Whoever contravenes the provisions of section 6 shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the tax due in respect of the sale of any motor spirit conducted by or on behalf of such person, whichever is greater.

Issue of warrants.

11. (1) A Magistrate may issue a warrant—

- (a) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act ; or
- (b) for the search, whether by day or by night, of any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is sold or is kept for sale.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or if the Officer issuing the warrant deems fit, by any other person.

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1998.

Searches how
made.

12. All searches made under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

Procedure for arrest
without warrant.

13. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under the provisions of this Act.

Duty of certain
persons to report
offences, etc.

14. Every person employed by Government, by any local body or by the Court of Wards, every village headman, village accountant and village watchman shall give immediate information to the [Deputy Excise and Taxation Commissioner] of the commission of any offence or of the intention of preparation to commit any offence punishable under this Act which may come to his knowledge.

15. (1) Every officer of the ¹[Excise and Taxa- Power of investi-
tion] Department not below such rank as may be gation.
prescribed shall, within the area for which he is ap-
pointed, have power to investigate all offences punish-
able under this Act.

(2) Every such officer shall, in the conduct of
such investigation exercise the powers conferred by
the Code of Criminal Procedure, 1898, upon an officer
in charge of a police station for the investigation of a
cognizable offence.

(3) Every such officer may enter at any reason-
able time the premises of any retail dealer and with
or without notice examine and take copies or extracts
from any account books or registers for the purpose
of testing the accuracy of any prescribed returns or of
informing himself as to any particulars regarding
which information is required for the purposes of this
Act or of any rules thereunder.

(4) Every such officer may detain and arrest any
person whom he has reason to believe to be guilty of
any offence punishable under this Act.

16. All offences punishable under this Act shall ^{Offences to be}
be bailable. ^{bailable.}

17. Any officer or person exercising powers ^{Punishment for}
under this Act who— ^{vexatious search}
^{or arrest.}

(a) without reasonable ground of suspicion, en-
ters or searches, or causes to be entered or
searched, any building, vessel, vehicle or
place ; or

(b) vexatiously and unnecessarily detains,
searches, or arrests any person ;

shall on conviction be punishable with fine which
may extend to five hundred rupees.

18. Any officer or person exercising powers ^{Punishment for}
under this Act who vexatiously and unnecessarily ^{vexatious delay.}
delays forwarding to a Magistrate any person arrested
under this Act and not released by him on bail shall
on conviction be punishable with fine which may ex-
tend to two hundred rupees.

19. (1) The ²[Deputy Excise and Taxation Com- Power to com-
missioner concerned] may accept from any person pound offences.

¹Substituted by Punjab Act 13 of 1953, section 4, for "Excise or Revenue".

²Substituted by Punjab Act 13 of 1953, section 5, for "Collector".

who has committed an offence punishable under this Act, by way of composition of such offence, a sum of money not exceeding one thousand rupees or a sum double the amount of the tax payable under section 3 in respect of any sale conducted by such person, whichever is greater.

(2) On the payment of such sum of money to the ¹[Deputy Excise and Taxation Commissioner concerned], the accused person, if in custody, shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

CHAPTER V—MISCELLANEOUS

Powers.

20. The powers of Government to appoint any person or to invest any person with any authority prescribed by the Act may be exercised by the ²[Excise and Taxation] Commissioner, subject to the orders of Government.

Protection of persons acting in good faith and limitation of suits and prosecution.

21. (1) Any civil or criminal proceedings instituted against any person in respect of any act done or purporting to be done in the exercise of any powers or the execution of any duty under this Act shall be dismissed unless the court is satisfied that the act complained of was not done in good faith.

(2) No suit shall be instituted against the ³[Government] and no prosecution or suit shall be instituted against any person in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

22. (1) Any person aggrieved by any order under this Act, or rules made thereunder other than an order made by a criminal court, may appeal—

* * * 4 * * *

(b) to the ⁵[Deputy Excise and Taxation Commissioner concerned] if such order is passed by any other officer or person exercising powers under this Act.

¹Substituted by Punjab Act 13 of 1953, section 5, for "Collector".

²Substituted by *ibid*, section 6, for "Financial".

³Substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

⁴Clause (a) of sub-section (1) of section 22, omitted by Punjab Act 13 of 1953, section 7 (i).

⁵Substituted by *ibid*, for "Collector".

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3), be final.

(3) The ¹[Excise and Taxation] Commissioner may at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying himself as to the legality or propriety of such order passed by or as to the regularity of such proceedings of such officer or person and may pass such order in reference thereto as he thinks fit.

23. Any order made under this Act, other than ^{Review.} an order made by a criminal court, may be reviewed by the officer making it or his successor, but not to the disadvantage of the person against whom it is made, unless he has done anything to mislead the officer passing the order.

24. (1) Government may make rules to carry ^{Power to make rules.} out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, Government may make rules for the purpose of—

- (a) the recovery of the tax leviable under section 3 including the fixing of the time when the tax is to be paid ;
- (b) the fixing of license fees ;
- (c) imposing on retail dealers keeping the duty of furnishing returns and of keeping records and registers of stocks and daily sales, prescribing forms for such returns, and register of stocks and daily sales and the particulars to be contained therein, respectively, and the manner in which the same are to be verified and all such other conditions

¹Substituted by Punjab Act 13 of 1953, section 7 (ii), for "Financial".

thereof as may be necessary and prescribing a period within which such returns must be submitted ;

- (d) prescribing the localities in which motor spirit may be sold, the assessment of tax and the issue of notices requiring payment and for the recovery of unpaid tax ;
- (e) providing for or restricting the assignment or transfer of licenses and the manner in which licenses granted to firms are to operate during the period of or on the dissolution of a partnership ;
- (f) prescribing the arrangements to be made when a licensee dies or becomes subject to a legal disability, the period during which, and the persons by whom, the business of such a licensee may be carried on without a license ;
- (g) requiring the production of licenses on demand, and
- (h) prescribing the period (which shall not be less than one month from the date of the order appealed against) within which an appeal under section 22 of the Act may be presented ; and prescribing the manner in which such appeal shall be presented.

(3) In making any rule Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees, and, where the breach is a continuing one, with further fine which may extend to twenty rupees for every day after the first day during which the breach has continued.

(4) All rules made under this Act shall be subject to the condition of previous publication.